

International criminal law aspects of surrogate motherhood

The present study¹ constitutes an analysis of international criminal law regulations regarding the surrogacy and connected with it child trafficking.²

The phenomenon of the so-called surrogacy is complex. There is no one behavior which can be identified as the central element of the procedure. It is possible to indicate a multitude of social situations or behaviors that make up the phenomenon.³ There are also many regulators (individual states, EU, UN) interested in setting norms. All of this complicate the possibility of presenting a coherent system of norms, constituting the basis for the finding of unlawfulness⁴ and punishability

¹ The article is an English-language summary of the study titled “Surrogate motherhood (tzw. urodzenie zastępcze) i handel dziećmi w ujęciu prawa karnego międzynarodowego”, which was originally written in Polish.

² The problem of “classic” trafficking of children (e.g. forcing children to prostitution) is beyond the scope of considerations. These issues are not related to the problem of surrogacy.

³ W. Górowski indicates, among others, such activities as: announcement of the sale/donation of gametes, announcement of pregnancy (both when it concerns a biological child, and the transfer of an embryo to a womb of a woman genetically alien), announcement of mediation in concluding a contract, seeking parties to a contract (biological mother), genetic and sociological parents), creation of the human embryo, embryo transfer, embryo pre-harvest, embryo freezing, destruction of supernumerary embryos, renunciation of biological parental rights by the parents, handing over to the sociological parents, sociological parents’ application for adoption, the adoption of sociological parents’ adoption by the court, the sociological father’s statement on the recognition of the child, payment of remuneration to the intermediary/organization of surrogate motherhood; see: W. Górowski, *Zastępcze...*, p. 8.

⁴ The term “unlawfulness” should be understood as the contradiction of behavior with the legal norm, binding the perpetrator. See: Z. Jędrzejewski, *Bezprawność...*, p. 325.; A. Zoll, *Komentarz...*, p. 26.

(culpability)⁵ of specific behaviors (conducts). Due to the complexity of the subject matter and the multifaceted nature of the discussed social problem, it seems necessary at the very beginning of the deliberations to separate two groups of issues for which dogmatic considerations will be conducted.

First, the problem of surrogacy, understood as contracting⁶ and carrying out medical procedures aimed at childbirth by a surrogate mother, is discussed in detail. It is so as only some issues related to the social phenomenon of such understood surrogacy have been described in the law.

Second, the present work discusses the issue of child trafficking, understood as the transmission of children born to those concerned, in exchange for remuneration and with violation of adoption procedures. Although it is not directly related to the problem of surrogacy, it constitutes a different social phenomenon, described in international law in an autonomous manner. In this respect, the most important aspects of the social problem have been described by law.

Further discussion is divided into three parts. The first one presents the characteristics of penal norms, taking into account the international context. The second contains an analysis of regulatory norms of international law and their impact on national legal systems. The third discusses the content of international penal obligations and points to possible problems in their implementation on the example of Polish criminal law.

1. Norms of criminal law in international context

International law significantly affects the shape of domestic legal systems. By concluding international agreements, states declare to make certain changes in internal laws. At the same time, international law does not specify directives of conduct directed to individuals – it only stipulates bonds between states. International regulations remain only in the sphere of declarations, unless individual countries decide to implement them into national legal systems.

⁵ The term “criminality” should be understood as the order to impose a penalty by the court in the situation of finding that the person has broken the law. Not every violation of the law by the body is associated with the obligation of sentencing the perpetrator to punishment. See: S. Tarapata, *Dobro prawne w strukturze...*, p. 380; P. Kardas, *O relacjach pomiędzy strukturą...*, p. 60.

⁶ M. Soniewicka, *Dylematy ...*, pp. 13–24.

International law affects national criminal law on two levels: First, it defines the customary principles of criminal⁷ and legislative⁸ jurisdiction. In this way, it helps to determine the boundaries of state power. Thanks to this, it is known whether the given behavior can be regulated or punished by the authorities of a given state. Second, it indicates which kind of behaviors should be treated as a crime by national criminal law.⁹ In the case of criminal law, this usually means that certain categories of behavior acquire the status of conventional crimes¹⁰, penalized under the principle of universal jurisdiction. Simplifying – it means that the national court does not have to verify whether the act is also a crime in a place (country / state) of its performance (perpetration). In both cases, international law affects the shape of national penal norms.

Penal norms have two basic functions. On the one hand, they determine what behaviors are prohibited under the threat of punishment. They are therefore directed to the individual, modeling its future behavior. On the other hand, they form the basis for the court's decision on imposition of punishment on an individual. Due to this duality of addressees, the dogmatic of criminal law distinguishes two types of penal norms: sanctioned norms and sanctioning norms.¹¹ **Sanctioned norms** specify the ways of conduct the violation of which is subject to penalty (punishment). They tell the individual how to behave in a given social situation. The standard of this category will include, for example, provisions specifying the conditions for the adoption procedures. The content and scope of the special effectivity of the norms of this type have to be recognizable as of the moment of the perpetrator's action or omission.¹² Only through such means are they able to influence perpetrator's behavior. For example, let us assume that the state X, under the threat of punishment, prohibits the adoption of a child in exchange for payment. A person committing such an act (behavior) must be able to predict that it is bound by the law of state X.

⁷ See, inter alia: C. Ryngaert, *Jurisdiction in International...*, p. 106; The Princeton Project on Universal..., p. 28.

⁸ W. L. M. Reese, *Legislative Jurisdiction...*, p. 1587; M. Wasiński, *Jurysdykcja legislacyjna państwa...*, p. 57.

⁹ L. Gardocki, *Zarys prawa karnego...*, pp. 118–119; A. Wąsek, [in:], A. Wąsek, *Kodeks karny. Komentarz. Tom 1. Artykuły 1–116...*, p. 773; B. Kunicka-Michalska, [in:] *Kodeks karny. Część ogólna...*, p. 1374.

¹⁰ L. Gardocki, *Zarys prawa karnego...*, pp. 118–119.

¹¹ M. Dąbrowska-Kardas, *Analiza dyrektywalna...*, pp. 171–184; P. Kardas, *Zbieg przepisów ustawy...*, pp. 269–270; W. Wróbel, *Zmiana normatywna i zasady...*, pp. 28–29.

¹² D. Zając, *Odpowiedzialność...*, p. 79 et seq.

The validity of a sanctioned norm cannot therefore depend on a future and uncertain situation, for instance, on the child's future appearance within the territory of state X.

Violating the sanctioned norm may entail activation of the **sanctioning norm**. Its addressee is the court. The norm specifies the order to impose a penalty on an individual who violated the norm of conduct (sanctioned) in particular circumstances. In the greatest simplification, it can be stated that the imposition of a punishment is not in response to the perpetrator's behavior, but to his act, which is unlawful (contrary to the sanctioned norm). Only if it is proven that the perpetrator violated the law binding him during behavior (behaved in a different way than the prescribed standard), it will be possible to punish him. The punishment has a subsequent character to the act of omission. It depends on many factors detached from the behavior itself, as a result. All of them, however, are known to the court at the time of the verdict.¹³

2. Sanctioned norms and the phenomenon of surrogacy and trafficking of children

Further considerations include an analysis of those provisions of international conventions¹⁴ that impose on the state an obligation to regulate specific behaviors

¹³ D. Zając, *Odpowiedzialność...*, p. 310 et seq.

¹⁴ The most important international agreements referring to the problems related to surrogacy are: European Convention on the Exercise of Children's Rights, ETS No. 160, Strasbourg, 25/01/1996; Convention of 25 October 1980 on the Civil Aspects of International Child Abduction; European Convention on the Legal Status of Children Born out of Wedlock Strasbourg, 15 October 1975; Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children; The United Nations Convention on the Rights of the Child (CRC) Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989, entered into force on 2 September 1990; Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography Adopted and opened for signature, ratification and accession by General Assembly resolution A/RES/54/263 of 25 May 2000 entered into force on 18 January 2002; Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption; Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime New York, 15 November 2000; Declaration of the Rights of the Child, Proclaimed by General Assembly Resolution 1386 (XIV) of 20 November 1959; European Convention on the Adoption of Children, Strasbourg, 24 April 1967; Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and

of individuals, connected with surrogacy. Both the content of international commitments themselves and their impact on national law are assessed below.

2.1. International law

International law very sparingly refers to the phenomenon of surrogacy. It does not introduce – apart from a few exceptions related to child trafficking – any detailed directives in this field. There are no direct effect regulations that could serve as a point of reference for assessing the unlawfulness of specific behaviors of individuals. International norms require implementation into national legal systems. In order to reconstruct the content of the particular sanctioned norm, it will be necessary to determine the content of the domestic law that is binding in a given situation. It should also be remembered that the conventional norms are in force only between the parties to the contract and they do not have “universal” binding power.¹⁵

The analysis of conventional regulations allows one to distinguish three leading threads connected with the problem of surrogacy motherhood and the related problem of child trafficking.

First, some of the acts of international law draw attention to the need to respect the rights of the family and the child, giving legal status to social values. In this respect, precise norms, suitable for implementation are not described. International law creates only some kind of “horizon” for the interpretation of specific provisions. This is the role, for example, of the Article 3 of the Convention on the Rights of the Child, 20 November 1989, the Preamble to the Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption¹⁶ or the Article 8 of the the Convention for the Protection of Human Rights and Fundamental Freedoms. The European Court of Human Rights, referring to the content

Biomedicine, Oviedo, 4 April 1997; Convention for the Protection of Human Rights and Fundamental Freedoms Rome, 4 November 1950. See also: L. E. Teitz, *Children ...*, pp. 524–529.

¹⁵ On the regulation of international law and its impact on Polish law see: E. Zielińska, *O potrzebie...*, *op. cit.*

¹⁶ Ratifying the Convention involves “[r]ecognising that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding; Recalling that each State should take, as a matter of priority, appropriate measures to enable the child to remain in the care of his or her family of origin; Recognising that intercountry adoption may offer the advantage of a permanent family to a child for whom a suitable family cannot be found in his or her State of origin.”

of the latter act, has developed a stable line of jurisprudence, according to which the starting point for all judicial decision in a field of adoption should be to protect the biological family bond that exists from the moment of giving birth, and not legal guarantee of the possibility of a hypothetical adoption bond in the future.¹⁷

Second, acts of international law guarantee the individual specific rights that may be violated under the procedure of surrogate motherhood. In accordance with the Article 2 of the European Convention on the Legal Status of Children born out of Wedlock: "Maternal affiliation of every child born out of wedlock shall be based solely on the fact of the birth of the child." The Declaration of the Rights of the Child, 1959 in Principle 3 stipulates that "[t]he child shall be entitled from his birth to a name and a nationality." This group also includes regulations regulating issues related to the modification of the human genome. The key is here Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine, 4 April 1997, Oviedo (the so-called "Biomedical Convention"). The convention introduces significant limitations in the possibility of modifying the features of the human genome.

Third, international law requires in a certain way to regulate the process of adoption understood as the acquisition of the right to care for a child. In this regard, it refers to both the need of protection of the child's well-being and also the biological family. International standards significantly limit the possibility of profiting from the organization of adoption. Such limitation was included, among others in the Article 32 of the Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption and in the Article 15 of the European Convention on the Adoption of Children. The adoption procedures, functioning at the national level, should, first of all, safeguard the child's interest and have his or her interest in high regard. (see also: Articles 9 and 21 of the Convention on the Rights of the Child, 20 November 1989). International law also requires that an appropriate period of time passes between childbirth and the mother's consent to the adoption of her child. In accordance with the Article 5.4 of the European Convention on the Adoption of Children. Strasbourg, 24 April 1967,

[a] mother's consent to the adoption of her child shall not be accepted unless it is given at such time after the birth of the child, not being less than six

¹⁷ E.B. v. France, No. 43546/02, ETPC 2008. See also: *Surrogate Motherhood: A Violation...*, p. 18.

weeks, as may be prescribed by law, or if no such time has been prescribed, at such a time as, in the opinion of the competent authority, will have enabled her to recover sufficiently from the effects of giving birth to the child.

Correspondingly, infringements of adoption regulations may constitute a crime in the light of international law.

2.2. Domestic law – a model approach

The regulations cited above specify the boundaries in which the national legislator has to operate. Apart from the few “hard” restrictions (e.g. the obligation to keep a six-week deadline when consenting to adoption), the indications of international law are general in nature. Many important issues have been left to the free settlement by the laws of individual countries. International law does not, for example, determine whether the so-called “pregnancy service contracts” should be banned, or whether parental rights can be granted to people who are in same-sex relationships.¹⁸ All these issues have been left to be decided at the level of individual countries. It results in a series of significant differences between domestic legal solutions.¹⁹ There are also no instruments forcing harmonization at the international level. Meanwhile, it is against this background that the greatest tensions arise and conflicts of jurisdiction appear. Individual states strive to maximize the scope of the effectiveness of their national law. In doing so, they refer to the existence of connections between a given state and the social situation. These associations are derived from various circumstances, referred to as jurisdictional links (nexuses).

¹⁸ See: B. Stark, *Transnational...*, pp. 380–385. This problem was also recognized at the EU level; see: C. Chetau, *Adoption...*, p. 4.

¹⁹ See: in the field of British law – *Inter-country surrogacy*, *op. cit.*; in the field of American law – C. Spivack, *The Law...*, pp. 97–114; in the field of German law – E. Przyśliwska-Urbaneck, *Macierzyństwo zastępcze z perspektywy prawa Niemiec*, Warszawa 2017; in the field of Italian law – L. Lai, *Macierzyństwo zastępcze w prawie włoskim*, Warszawa 2017; in the field of Israeli law – M. Fras, D. Abłażewicz, *Reżim...*, pp. 37–41; in the field of Serbian law – G. K. Stanic, *State...*, pp. 50–57; in the field of Croatian law – Pp. Vidlicka, D. Hrstic, Z. Kirin, *Bioethical...*, pp. 37–65; in the field of Greek law – E. Kounougeri-Manoledaki, *Surrogate...*, p. 267 et seq.

This leads to jurisdictional disputes, which must be resolved using general solutions based on weighing jurisdictional links using the rule of reason.²⁰

To illustrate the complexity of the above situation, it is worth using the following example. A Polish citizen (link of citizenship) and a citizen of the United Kingdom (link of citizenship) go to Thailand²¹ (link of territory) to enter into an agreement to mediate in the procedure of surrogate motherhood with the enterprise organizing this type of activity (link of place of registration). The child's biological mother in this case is to be a Vietnamese citizen (link of citizenship). The semen comes from an anonymous donor, whose identity is in practice impossible to determine. The egg cell is supposed to come from a British citizen. After the birth of the child, a British citizen and a Polish citizen will ultimately gain parental rights towards him.

Each of the actors in the above case may be bound by a different legal regime. The behavior of a Polish citizen can be assessed from the perspective of Polish or Thai law. British behavior – from the perspective of English or Thai law. In the case of other entities, it will also be possible to indicate a larger number of jurisdictional links. They all intersect with each other, strengthening or weakening the competence of a particular state to regulate a given behavior. It must be remembered that the aim of the norm is to regulate the behavior of a particular person, not the phenomenon or social events as such. This approach leads to further complications. If a multi-person configuration occurs in a given situation, it may turn out that different norms will have to be used to assess the unlawfulness of particular behavior of individuals.²²

By determining what norm involved the perpetrator at the time of his behavior, it is possible to determine whether the perpetrator acted unlawfully (violated the sanctioned norm). This is one of the conditions that activate the sanctioning norm, which obliges the court to impose a penalty.

²⁰ From the perspective of international public law, the theoretical basis for resolving such conflicts may be the rule of reason. It is a general principle of international law, interpreted from four general principles: the principle of non-intervention, principles of equity, the principle of proportionality and the prohibition of abuse of law. Using the rule of reason, it is possible to weigh the significance of connectors and show which state has the right to regulate a given social situation, and thus which norm applies. See: M. Plachta, *Jurysdykcja państwa w sprawach...*, pp. 116–122; C. Ryngaert, *Jurisdiction in International...*, p. 143.

²¹ Until recently, Thailand was one of the most popular directions for surrogate tourism, due to very liberal regulations; however, they were changed in 2015; see: J. Caamano, *International...*, p. 571 et seq.

²² D. Zajac, *Odpowiedzialność...*, p. 374 et seq.

3. Sanctioning norms and the phenomenon of surrogacy and trafficking of children

From the perspective of criminal law, the above-described norms of a regulative nature are of interest only to the extent to which they are connected with criminal sanctions. Further considerations concern these regulations of international law, which impose on the state the obligation to penalize acts related to surrogacy. Within these pages also the method of their implementation – on the example of Polish criminal law – is discussed.

3.1. Surrogacy and child trafficking and international obligations in a field of criminal law

To a very limited extent international law obliges states to penalize behaviors related to surrogacy. The duty of prosecution actually applies only to specifically understood child trafficking. One of the key elements of the surrogacy procedure is the transfer of parental rights to the child. In accordance with the requirements of international law, this must always be done within the limits of the procedure determined by law. There is a very high risk of treating a child like a commodity²³, which is subject to market laws.

Penalization of broadly understood human trafficking²⁴ is provided for by international law. Bearing in mind the subject of this study, special attention should be paid to the Optional Protocol to the Convention on Children's Rights, Child Prostitution and Child Pornography. Other acts of international law refer to classical human trafficking, and trade in children is separated only by the method of obtaining power over a person. The Optional Protocol introduces special solutions that are crucial for penalizing the behaviors that make up the surrogacy procedure. The Article 3 of the Optional Protocol stipulates: "1. Each State Party shall ensure that, as a minimum, the following acts and activities are fully covered under its criminal or penal law, whether such offences are committed domestically or transnationally or on an

²³ See: B. Lewis, "You Belong...", pp. 652–656; C. A. Choudhury, *The Political...*, pp. 12–16.

²⁴ For information on human trafficking from the perspective of international and Polish law, see: *Handel ludźmi. Przestrzeń prawnokarna i kryminalistyczno-kryminologiczna*, eds. P. Łabuz, I. Malinowska, M. Michalski, T. Safjański, Warszawa 2017; *Handel dziećmi. Wybrane problemy*, eds. Z. Lasocik, M. Koss, Ł. Wiczorek, Warszawa 2007, A. Sakowicz, *Przestępstwo...*, p. 63 et seq.

individual or organized basis: (ii) Improperly inducing consent, as an intermediary, for the adoption of a child in violation of applicable international legal instruments on adoption.” An example of such behavior will be, for instance, urging the child’s biological mother to waive her parental rights before the expiration of the above six-week period.

Other behaviors that constitute a form of a surrogacy are not covered by the obligation to criminalize any of the parties involved. This also applies to those behaviors that have been described as forbidden, but they have not been subjected to punishment (e.g. acts described on the basis of the Biomedical Convention). If they are found to be crimes under domestic law, they will not be of a conventional nature.

3.2. Domestic regulations specifying prohibited acts, connected with surrogacy and child trafficking

The scope of criminal jurisdiction is shaped by reference to the customary principles of international law.²⁵ Each country introduces here, however, some modifications, which discussion is not possible here. Bearing in mind the above, the reference point for further considerations will be the Polish criminal law standards, in so far as they are the effect of implementation of penal obligations.

The Polish legislator did not introduce separate criminal provisions that would apply directly to the phenomenon of surrogate motherhood. This does not mean, however, that individual behaviors that constitute the subject matter cannot be subject to criminal liability. The most important meaning here are three provisions: the Article 211a²⁶ of the Polish Criminal Code, the Article 189a²⁷ of the Polish Criminal Code and Article 82²⁸ of the Act on the Treatment of Infertility. The crime can be

²⁵ D. Zajac, *Odpowiedzialność...*, p. 151 et seq.

²⁶ Article 211a of The Act of June 6, 1997 -- the Penal Code, Dz.U. 1997 No. 88 item 553 – stipulates as follows: “Whoever, with the purpose of gaining a material benefit, organises adoption of children against the statutory provisions, is subject to the penalty of deprivation of liberty for between 3 months and 5 years.”

²⁷ Article 189a of the The Act of 6 June 1997 – the Penal Code, Dz.U. 1997 No. 88 item 553 – stipulates as follows: “§ 1. Whoever traffics in humans, is subject to the penalty of deprivation of liberty for no less than 3 years. § 2. Whoever makes preparations to commit the crime provided for in § 1, is subject to the penalty of deprivation of liberty for between 3 months and 5 years.”

²⁸ Article 82 of the The Act of June 25, 2015 on Infertility Treatment, Dz.U. 2017, item 865 – stipulates as follows: “Whoever uses preimplantation genetic diagnosis in the procedure of medically assisted procreation for non-medical indications, including the selection of a future child’s sex, except

perpetrated, for example, by the signing of a surrogacy agreement, provided that its provisions oblige the parties to unlawful conduct (for example, when the contract obliges a surrogate to carry out an act of abortion of the fetus upon the decision of a potential social mother²⁹).

From the perspective of this work, the most important question is whether the above crime has a conventional character. If this is indeed so, then the Polish domestic court does not have to consider any foreign law – in case of the crime committed abroad. If the national law transfers international norms into the domestic legal system in a proper way, the infringement of the domestic norm will also constitute an act of infringement of the international norm. In this way, the act of the perpetrator can be described as an example of an international crime and be duly prosecuted under the principle of universal jurisdiction.

Without analyzing the above types in detail (this issue is the subject of a separate study), it should be pointed out that the scope of penalization described in the above-mentioned provisions of the Polish Criminal Code does not coincide with the scope of obligations of penalization, described by international law.

Such a flawed implementation of the provisions of international law in fact gives the false “conventional” nature of the “domestic” offense. It has important consequences for the use of norms in practice. Recognizing that a given offense is of a conventional nature, it is possible to invoke the principle of universal jurisdiction as the basis for prosecution. In the case of many national legal systems, this means exemption from the obligation to demonstrate double criminality.³⁰ In the case of the above-mentioned Polish criminal provisions, this “conventionality” of crimes will serve as their focal point. For example, Article 211a of the Polish Criminal Code stipulates as follows: “Whoever, with the purpose of gaining a material benefit, organizes adoption of children against the statutory provisions, is subject to the penalty of deprivation of liberty for between 3 months and 5 years.” Optional Protocol, which is an international base for the above article, mentioned only “an intermediary” who “improperly induces consent.” Such differences between the

when such a choice avoids a serious, incurable hereditary disease, is subject to a fine, imprisonment or imprisonment freedom up to 2 years old.”

²⁹ This approach was presented by the Supreme Court of Poland in the judgment of November 20, 2014, reference number of case: IV KK 257/14; source: <http://www.sn.pl/sites/orzecznictwo/Orzeczenia3/IV%20KK%20257-14.pdf> (last accessed: access: 22 July .07.2018). See also: the judgment of the Court of Appeal in Krakow of 22 April 2014, reference number of case: II AKa 37/14, KZS 2014/5/62; J. Kędzierski, *Glosa do wyroku...*, pp. 159–163; R. Walker, L. Van Zyl, *Towards...*, p. 136.

³⁰ See: O. Lagodny, *Possible Ways to Reduce...*, p. 2.

international obligation and the domestic provision create complication for courts. It is possible that someone may commit the crime described in Article 211a of the Polish Criminal Code, but it will not constitute a conventional crime. To interpret the norm, judges have to take into account not only the provisions of domestic law, but also the content of international agreements. Only in this way will the court be able to establish which principle of jurisdiction provides the basis for punishments in a particular case.

4. Summary

The considerations presented above allow for making the following final conclusions:

1. international law refers to the problem of surrogacy in a fragmented way;
2. the lack of direct applicability of international norms transfers the burden of regulation and penalization to national legislation; it produces the scarcity of uniformity of solutions;
3. the lack of uniformity in this extent often excludes the possibility of punishing the perpetrators, because of the requirement of double criminality;
4. it seems necessary to take steps towards a more complete harmonization of individual national laws; however, such a harmonization ought to first and foremost include norms of a regulatory nature.

Fundamental legal problems of *surrogate motherhood* Global perspective

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